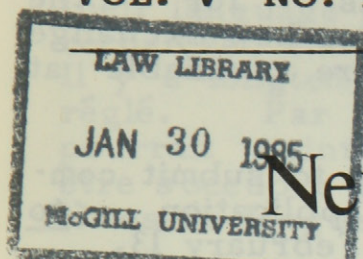


Quid Novi

VOL. V NO. 16

McGILL UNIVERSITY FACULTY OF LAW
FACULTE DE DROIT UNIVERSITE MCGILL

January 30, 1985
30 janvier, 1985



News From The DEAN'S OFFICE

Since I last wrote for Quid Novi, a number of developments have occurred in the Faculty. I thought I would take this opportunity to report on various items of general interest.

New Associate Dean

The University Board of Governors recently approved the appointment of Professor Peter Haanappel as Associate Dean of the Faculty for a two-year term commencing June 1, 1985.

Staff Appointments

The Board of Governors also approved the appointment of Professor Suzanne Birks as an Assistant Professor. Professor Birks will be teaching next year in the areas of Family Law, Regulated Industries, Constitutional Law and Civil Procedure.

The Board of Governors also approved the appointment of Mr. Daniel Jutras as an Assistant Professor. Mr. Jutras, who is currently completing an LL.M. at Harvard University, will be teaching in the area of Obligations and Criminal Law.

Sabbaticals

I am pleased to report that the Board of Governors also approved five sabbatical applications for 1985-86. As you may know, this year Professors Stephen Scott and Michael Bridge and former Dean Brierley are on leave.

For 1985-86 Professors Madeleine Cantin Cumyn, Patrick Glenn, Jane Glenn, Ralph Simmonds and Margo Somerville will be on leave.

Supreme Court Clerks

Recently I was informed that Karen Kolodny, a graduate of our National Programme in 1983, was appointed Law Clerk to Mr. Justice Lamer for the year 1985-86. A former student in the Institute of Comparative law, Laurent Marcoux, is currently a Clerk to Mr. Justice Lamer.

I have also been informed that Stephen Toohey, also a graduate of our National Programme in 1983, was appointed Law Clerk to Chief Justice Dickson for the year 1986-87.

These two most recent appointments are McGill's fourth and fifth to the position of Supreme Court Clerk. As you may know, Professors Dennis Klinck and Peter Benson have also served as Supreme Court clerks. Mr. Stephen Perry,

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Charité bien ordonnée

L'ordre du jour de Conseil de la Faculté et l'éditorial du Quid de la semaine dernière faisaient état d'une "controverse"; le bilinguisme à la Faculté de droit. Au risque d'avoir l'air de 'battre un cheval mort', voici pour la première et dernière fois mon propre exorcisme en la matière.

Soulignons d'abord que le terme "controverse" est exagéré; le mot a été tellement galvaudé par journalistes et politiciens en mal d'attention qu'il en est pratiquement rendu vide de sens. Sans douter des bonnes intentions qui animaient MM. Janda et Sloan lorsqu'ils soulevèrent la question, j'avoue que

j'aurais agi avec plus de circonspection avant de remuer de faux problèmes et de mettre sur table les remèdes inutiles et les solutions illusives dont se bercent les activistes para-scolaires. Première ironie: c'est un étudiant anglophone (plein de bonne volonté, sûrement) qui s'élève noblement contre les "basic inequities" et "parental disabilities" dont souffriraient les étudiants francophones qui, continuait-il, "must surely have been handicapped". Cette obsession malodore des anglophones à vouloir nous délivrer du mal n'a pratiquement aucun écho chez mes collègues francophones.

Cont'd on p. 2

ANNOUNCEMENTS

Criminal Law Group presents "Military Law"

A seminar on the justice system in the Canadian Armed Forces, featuring Lt./Col. Michel Crowe, and Judge-Advocate General Brand, Canadian Armed Forces.

Wednesday, 30 January,
Room 201, 12-2 p.m.

Centenaire des femmes

World Visions: Women, Education and Change

Dr. Mary Daly, feminist theologian, will be speaking on "Bewitching: Recalling the Courage to Sin", January 31st, 1985, at 7:00 p.m. Leacock Building, Room 26.

**Everyone Welcome
Free**

Skit Nite 1985

It's that time of year. Put your books aside; let your mind wander. We need those skits now. Submit at S.A.O. to Cindy Cunningham, Jacqueline Lacey or Sandra Stossel.

Le moment tant attendu est arrivé. Mettez donc vos livres de côté pour un moment et laissez aller votre imagination. C'est dès maintenant que l'on attend vos sketches. Soumettez-les au S.A.O. à Cindy Cunningham, Jacqueline Lacey ou à Sandra Stossel.

The Dean's Hot Seat

Dean Macdonald will have a "Hot Seat" on Thursday, January 31 at 1:00 p.m. in the Moot Court. The agenda will include:

- 1) bilingualism in the Faculty;
- 2) student placement;
- 3) the report of the Dean's ad hoc committee on marking;
- 4) provincial bar association accreditation of law faculties; and
- 5) where is the Faculty going.

All students are strongly encouraged to participate.

The Inter-Facultaire Moot will be taking place in Quebec City on February 1-2, 1985.

Best wishes are extended to

**J.P. Sheppard
Denis Godbout
Anne Marie Pelletier
Arthur Evrensel**

Applications for the Civil/Common Law Exchange Program are available at the S.A.O.

Deadline to submit completed application to S.A.O. is February 13.

The Civil Law/Common Law Exchange Program is offered by the Department of Justice through the University of Sherbrooke and Dalhousie University. Its aim is to provide Canadian law students with the opportunity to learn about and compare Canada's two legal systems.

BCL/LLB IV Grad Composite

If you want to have your picture in the grad composite, you must go down to VanDyke's and select your proof. Please go soon because the composite cannot be started until all proofs are in.

**Jill K. Hugessen
Class President**

Charité bien ordonnée Cont'd from p. 1

Ce qui semble un désavantage à d'autres constitue pour nous une corde de plus à notre arc, un défi relevé; c'est à la fois une marque d'acculturation assumée et une preuve d'identité assurée. Enfin, le problème, s'il y en a un, se situe vraisemblablement de l'autre côté de la clôture, chez ceux du groupe majoritaire qui par l'ironie de l'histoire et de la géographie sont confinés dans le dernier bastion de leur prédominance, sous peine d'avoir à s'expatrier

(le plus souvent à Toronto) ou de s'intégrer aux "autres". C'est manquer gravement de lucidité que de croire qu'on peut changer le statut d'une langue et en favoriser l'apprentissage en organisant des "activités para-scolaires" et en ébauchant des politiques et mesures artificielles afin d'équilibrer les choses. Une langue seconde ne s'impose pas; il s'agit d'abord d'une question de motivation personnelle. Il faut l'appropriiser. Ainsi qu'on ne vienne plus nous dire que

Cont'd on p. 3

Cont'd from p. 2

"francophone students have been less than forthright in advocating language improvements in the role of French and in assuring that their language problems are recognized and addressed." Il y a longtemps que c'est réglé. Par contre, on pourrait maintenant peut-être s'occuper de vos problèmes de langue....

François Guilbault

Dean's Office

Cont'd from p. 1

currently a Boulton Fellow, has also been a Law Clerk, as has Mr. Daniel Jutras, who will be joining the staff next year.

Computers and Other Equipment

May I remind students who are interested in computer-assisted legal research that the Faculty now owns three Apple Macintosh computers. These personal computers installed in the library may also be used for ordinary research purposes. Please feel free to ask the Library staff if you would like to make use of these computers.

I would also like to announce that, through the generosity of the McGill Associates, we have been able to acquire two overhead projectors, to be installed in Rooms 101 and 102. I hope that this new equipment will be operational before the end of term.

Ad Hoc Committee on Bilingualism

I have now struck a Committee to investigate various matters relating to bilingualism in the Faculty. This Committee, whose terms of reference are set out generally below, will be reporting back to me towards the end of term.

I have asked the Com-

TRIAL BY NEIGHBOURISM

Last Thursday, the ongoing Seminar Series presented Professor Kaufman, who spoke on "Trial by Neighbourism", a term coined to reflect the problems encountered when group homes for the mentally retarded are introduced in middle class residential areas.

It would be difficult to find someone who would, on an individual basis, oppose the idea of group homes for the mentally handicapped. But attitudes change quickly. When a home moves in next door, communities swiftly bind together in opposition.

These group homes usually house four to eight mentally retarded individuals, supervised by a "house parent" unrelated to the individuals. During the day, the intellectually handicapped residents are either in school or at work. In

this setting, they are encouraged to integrate themselves into the community as much as possible -- buying food, keeping house, etc. -- to develop self-respect, responsibility, and independence.

Funding for the homes is provided by parent-run, non-profit corporations; Canada Mortgage and Housing will usually provide 95% of the downpayment and a low interest mortgage. Sometimes houses are bequeathed for this purpose.

Until recently, it was believed by both laymen and professionals that anyone who functioned at sub-average capacity should be institutionalized. However, it is now recognized that many mentally handicapped individuals can function in non-institutional settings although their progress may

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mittee to look into (i) whether there is room for a more explicit statement of language requirements in our Annoucement; (ii) whether our present policy regarding the language of instruction in courses should be maintained (i.e. is there room for french-language tutorials, more sections of french-language courses, etc.); (iii) whether our policy respecting the language of examinations should be revised; (iv) whether we should be developing courses in "français juridique" for anglophone students or "legal english" for francophone students, and whether we should try to institutionalize non-Faculty courses in second-language instruction; (v) any other

matters the Committee thinks relevant to its mandate.

Dean's Hot Seat

I have scheduled another Dean's Hot Seat for Thursday, January 31 at 1:00 in the Moot Court Room. Among the topics I would hope to consider at that time are (i) bilingualism in the Faculty; (ii) student placement; (iii) the report of the Dean's ad hoc Committee on marking; (iv) provincial bar association accreditation of Law Faculties; (v) where is the Faculty going.

Of course, as at all Hot Seats, I would be delighted to discuss any other matter which students in attendance want to raise.

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POETRY

Law School one semester first.
Of all my past this is the worst.

Good freshman you mustn't fret
School is certain to be kinder yet
The honor roll is not you goal;
Student-at-Law your noble end
Is to listen, read, think and comprehend
Importance lies not with your score
Nor the number of cases your head can store
For trivia, like transcripts will in turn
Pale in the face of all you've come to learn

The very truth you speak indeed
However I cannot be accused of greed
For not only cum laude am I without
I dare say whether I've learnt is in doubt.
Four months full at Chancellor Hall
Most teachings in which I can't recall
Hence little understanding and nary a passing grade
Dwindle aspirations for a profession to hopes for a trade

So pray tell me then
How can I get back at Cotler and even with Glenn?

Nay, Nay, talk of defeat and revenge is absurd
head high, stand straight and be assured
Much you did learn this semester past
'Tis only your first and not your last
Contrary thoughts lead only to regret
The study of law is a challenge to be met
Are you a Man or are you a Mouse?
Study hard and keep safe from Thompson House.

M.M.
Still in LLB I

Trial by Neighbourism Cont'd from p. 3

be somewhat slow. Community resistance to the homes centers around myths: that property values will decline, and that the mentally handicapped are prone to violence.

Kaufman responds to these myths with studies showing that communities containing one group home do not, in fact, suffer declines in property value. Furthermore, the mentally handicapped must be distinguished as a group from the mentally ill. While the mentally ill may exhibit violent behaviour, mentally

handicapped individuals are usually gentle.

Group homes in residential communities are established through tedious and difficult procedures. In most provinces, licences must be obtained through community councils. Council hearings are described by Kaufman as "emotional controversial hearings, which can often bring out 300-400 irate community members," and may last for five hours. As an effective strategy, Kaufman has called upon community religious leaders, who are usually in favour of the

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A WINTER'S TALE OR...WHAT YOU MISSED WHILE YOU WERE TANNING

As December dimmed and law students fled in a diaspora toward Mexico, Europe, and Florida, those meccas of the fun-loving and fashionable, I found myself forced to seek solace in that antiquated form of entertainment, Reading.

Feeling sheepish, yet having no access to Scott Turner, Prince of Perception, I turned to best-seller lists in quest of the great literature of 1984. A few ominous days were left in 1984, but with 1985 looming, I was determined to reacquaint myself with optimism (hoping to start a trend).

The force found me, and millions of others, driven

toward Mark Helprin's Winter Tale. It was inspiration at first sight. One should not judge a book by its cover, of course. But having followed the example of Law School "Great" Bill Tresham and rid myself of unnecessary volumes of legal jargon, precedents and principles, my empty bookshelves called out to be filled.

I did gain momentum after the holiday lethargy and read the book. Seeking magic and mysticism, I shared in Peter Larke's confused search and the Penn anxiety over the upcoming millenium.

Montreal, like Helprin's

New York, was alternately plagued and blessed by winter weather (unlike Florida which was plagued only by law students).

Halprin's book is about a chosen few in a chosen city. It is about grandiose dreams and the optimism and anxiety associated with change. It is also about the struggle to define time in order to defy it. The author transcends credibility with vigour.

To experience the full effect of the novel and its

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Cont'd from p. 4

group home ("if you don't have the law on your side, at least you have religion"). This tends to inhibit or at least decrease vehement opposition to the homes. In addition, Kaufman often tries to find at least one disinterested community member of the public at large to testify in favour of the home.

Unfortunately, negative community response places substantial pressure on councillors who refuse to grant licences in the hopes of appeasing the community and ensuring their own re-election. Even if a licence is granted, the community will often appeal, in an effort to prolong the judicial process if not to reverse the original decision. These tactics are particularly effective because most group homes are

bought on the condition that a licence will be obtained within a certain period -- usually three to four months. By the time a decision is finally reached, the purchase option will have lapsed.

Kaufman recognizes the legitimacy of the concerns expressed by residents. To a certain extent, people often expect that their neighbours will "be like them". The "emotional costs" created by the prospect of a group home are sometimes more than a community is willing to bear.

The interests of the community often prevail over those of the mentally retarded as a result of political pressure exercised on councillors. Quebec provides a solution which Kaufman endorses: the licence should be granted by the provincial

government rather than the community council. The political clout that can be exercised by disgruntled residents is substantially reduced at the provincial level. As a result, a more impartial form of decisionmaking replaces what Kaufman dubs "government by screaming" or "trial by neighbourism".

The group home is a vehicle which integrates the mentally retarded into the community. It is the only such vehicle. If it is blocked, the mentally handicapped will have nowhere to go except back to the institutions.

Quote for the Day

"Injustice is relatively easy to bear; what stings is justice."

..H.L. Menken

Why I'd Rather Study Law at U.N.B.

by Paul Fitzgerald

This past weekend I had the pleasure of visiting Fredericton, N.B., and while I was there, I visited the library of Ludlow Hall, the Law faculty of the University of New Brunswick. I was rather surprised to find the law library of this small Atlantic-Canadian law faculty in a rather enviable condition compared to our own. The books on the shelves were in order, and spaces neatly marked the positions of the books which were in use. (Of course, the fact that this school has three copies of many heavily-used books made even those more likely to be on the shelves than our two copies.) To my great delight, I found myself capable of locating books rather quickly in this unfamiliar library.

Of course, my impressions were all the more favourable because the library is brand-new, and I did not see it in operation during a peak-use period (moots). However, I was comparing it with the library here which I had seen the day before and which was also not in a peak-use period. To confirm my impressions, I spoke with some third-year students and with one of the library staff. Although we do not have a brand-new library, and we have more books than does U.N.B. (partly as a result of the requirements of our National Programme) we can copy many of their procedures in an effort to make our library more **USER FRIENDLY**.

Firstly, Ludlow Hall has eliminated the endless searching of desks for books not on the shelves.

The books are not on the same floors as the desks, and each student, when taking a book to a desk, must sign out the books and indicate the desk number of the table at which s/he is studying. This also applies to people who are doing research, moots, working for the Law Review, and even to faculty who are using the library's books at a table. There is no respect for signs such as "Paper in progress, please do not remove" as it is felt that even the busiest researcher can sign the needed materials out to his/her study position. In addition, the law school has hired students whose job is to reshelve any books found on tables which have not been signed out. According to some third-year students, it is a real shock when books one was planning to use are reshelved, but one learns very quickly, adapts to the rules and enjoys the immense benefits of an organized library.

Secondly, Ludlow Hall permits the easy tracking of those books which are not in the library, by insisting that members of the faculty sign out books that they plan to use. There is no "Faculty Elevator" here, and all understand that it is in the best interests of everyone if research time is devoted to research, instead of playing hide-and-seek.

Thirdly, Ludlow Hall has installed tables near the most heavily-used books such as the Canadian Abridgement, the Canadian Encyclopedic Digest, Halsbury's Laws of England, and the state citators, so that people look up their

cases on-site, and the books have less tendency to wander. According to the library staff-member with whom I spoke, this system worked well through the heavy-use periods of first-year writings assignments.

Fourthly, in a stroke of genius, Ludlow Hall made sure that there were no tables near the photocopy machines. Books whose pages have been photocopied are promptly returned to their proper places, as only an idiot would leave expensive and precious law books on the floor. There do not appear to be a large number of idiots at U.N.B. (The photocopy machines are located in a separate room which reduces the noise level in the library.)

Fifthly, most students and staff, realizing that easy-to-find books are everyone's joy, take the seconds required to reshelve those volumes which have served them so well.

All of the above results in a very organized and highly usable law library. One third-year law student told me that she regularly looked up the headnotes of her assigned cases 15 minutes before class, and if the book in question was not on the shelf, she was always able to find it within 5 minutes by going to the library staff and finding out at which desk it could be found. By contrast, my limited experience with McGill's law library leads me to allow at least 25 minutes search time when looking up the headnotes of cases contained in the Supreme Court Reports.

Cont'd on p. 7

NEWS FLASH

Dateline: Chancellor Johannesburg Hall, 15 March 1917

Tisk, the So-be-it News Agency, has officiously announced the urgent and unavoidable enclosure of the Royal Circle and the surrounding grounds onto which opens this bastion of rightthink.

An unidentified source, speaking while on sabbatical at Oxford where he is repatriating his constitutional ideas, admitted to these reporters that the barricades, to be known commonly (and civilly) as Checkpoint André, are a necessary response to a serious threat. This source opined to these reporters that the whole things smelled of an anti-monarchist, proletarian movement funded, no doubt, by French Buttermakers. This source, remaining unidentified, further remonstrated that the effects of behaviour of the international automobilistes re-

quire quick reaction in order to ensure that the Royal Corgis have their manger, let alone their day. Without the installation of Checkpoint André, spurious interventionists from diverse agencies, such as McGill Food Services, Canada Post, and Scott (no relation) Cartage, would be free to aid the insurrectionist parkers and further bottleneck the Dynastic Doughnut.

One visitor to Chancellor Johannesburg recently commented on the checkpoint, viewing it as "an ill-considered assay by morally bankrupt, chauvinistic capitalists aimed at reversing the irresistible uprising of subjugated self-movers against recidivist robber-barons."

The administration stands firm, however, in its defence of Checkpoint André. Our still unidentified source further stressed the necessity of the gates: the alternative to

gating, towing, results in the bringing of innumerable and unavoidable law suits against the government of Chancellor Johannesburg. (Our source declined to discuss the government's chances of success in these law suits, which chance of success must be pretty high, these complained against guerilla parkers being interlopers and illegitimate "stationeurs", after all.)

It strikes these reporters as ironic that the unidentified source may have cut off his proboscis to spite his countenance. Consider this: Should our unidentified, middle-aged professional source fall prey to the ravages of his social status and suffer, God forbid, from a cardiac arrest it is to be wondered how Urgences Santé will meet their call. Checkpoint André could become Checkmate Steve.

Mark Dresser

Cont'd from p. 6

As a first year student who has several research projects due this term, and who shudders at the prospect of wearing out the soles of his shoes in the search for those materials that will be required for moots, I hope that the students and staff here at Chancellor Day Hall can learn something from the practical ways of our New Brunswick colleagues. This will require some changing of habits and current practices, however, the result will benefit all. (If you are very skeptical, take a look at the faculty library across the street. Ever wonder why they study

there instead of here?)

There are other things which make Ludlow Hall's library a nice place to study in, but these could not be implemented here until the proposed changes are made to our library. In the meantime, let's make a commitment to make the very most of a crowded library and vast selection of books.

Cont'd from p. 5

prophecy, however, the reader should immerse himself in winter. Periodic ventures into howling winds and swirling snow enhance the novel's effect. Those with indoor plumbing will thus find themselves at a

distinct disadvantage, as will those drawn to sun and sand. There is hope for the latter group, however, as the power of Mark Helprin's city appears to defy urban planning. On the spot reporters have noted the return of wayward law students at airports and train stations throughout Montreal. It remains, now, for the winds of winter to cleanse their souls of cynicism and their skins of colour. Mark Helprin will take care of the rest.

The Interim Committee on climactic conditions in the Northern Hemisphere

Dear Quid

Reprinted from Ann Landers

Dear Ann: Four years ago I graduated from a prestigious law school with high hopes of a promising career. I clerked for a top firm with an associateship assured as soon as I passed the bar.

My problem is that I have been unable to pass the bar. My term as a clerk expired several months ago and the firm asked me to resign. I took a job as a toll collector on a turnpike because it was all I could get.

My boyfriend, a practising attorney, has broken our engagement. Most of my friends have dropped me. I rarely go out.

After seven years of higher education, I question the meaning of it all. I have considered suicide because I feel like such a failure.

Please point me in a direction that will give me the will to live.

Y.Z.X.

Dear Y.Z.X.: Contact your favorite law professor and ask him to instruct you on how to pass the bar. Do exactly as he says and stick with it until you make the grade.

Quote of the Week

First year student overheard in the hallways:
"If I only had one day left to live, I would spend it reading Property; it would make that day seem so much longer!"

Quid Novi Presents: What's In What's Out For 1985

What's Out

Rational Universalist ANYTHING
Squash
The Falkland Islands
Pet Rocks
Bill Foster's Beard (Still)

Parking
Special K in English
The Scarsdale Diet
Restitution
Mrs. Hale
Trying to Get a Job
Big Government
Promises in the Night
Fertile Octogenarians

What's In

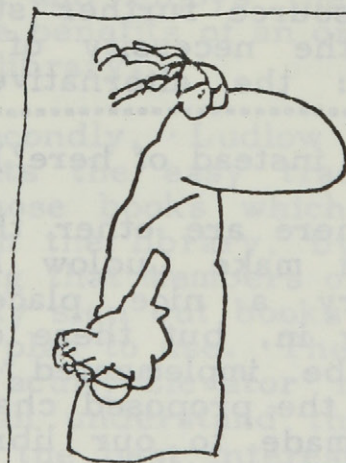
Cabbage Patch Dolls
Curling
Soviet Spies
Squirrels in the Attic
Other Secondary Sex Characteristics
Locking the Front Gates
Special K in French
The Baker Diet
Remedies
Cindy Lauper
Getting a Job
Heenan Blaikie
Negligent Misstatement
"Wait and See"

Erratum

Last week's editorial by Todd Sloan contained the following error: "As anglophone students, many of us have not recognized that while we have a right to English-language instruction in proportion to our 'presence', we also have a

responsibility as future civilian, "natural" or even common law lawyers to fully participate within the linguistic milieu of the jurisdiction to which we have been exposed.

"Natural" should read "national". Quid regrets the error.



What an over-rated workload there is in First Year. Exams must be a breeze...



But then, why are the bathroom-wall warnings about Scott and Cropeau engraved with nails?